



BILL LEE
GOVERNOR

STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
NINTH FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

PENNY SCHWINN
COMMISSIONER

Via Electronic Mail

February 16, 2023

Richard T. Rye, Director of Schools
Humphreys County Schools
2443 Highway 70 East
Waverly, TN 37185

Re: Waiver for English as a Second Language (ESL) Programs

Dear Director Rye:

I am in receipt of your January 23, 2023 waiver request of State Board of Education Rule 0520-01-19-.03 requiring students identified for ESL services via a Tennessee Department of Education-approved English Language Proficiency screener to receive a minimum of one (1) hour each day from a teacher who holds an ESL endorsement.

According to your request, you are seeking to condense these services to one hour and forty minutes per day for three days a week. This waiver will allow the ESL Coordinator to better accommodate three displaced students who were relocated to McEwen Elementary School and Lakeview Elementary School as a result of the August 2021 flood.

Tenn. Code Ann. § 49-1-201(d) grants the commissioner the authority to “waive any state board rule or statute that inhibits or hinders the LEA’s ability to meet its goals or comply with its mission.” Therefore, your request is hereby granted for the remainder of the 2022-23 school year.

Please do not hesitate to contact me if you have further questions.

Sincerely,

Dr. Penny Schwinn
Commissioner



Tennessee Department of Education – Office of The Commissioner
710 James Robertson Parkway - Andrew Johnson Tower, 9th Floor - Nashville, TN 37243

Local Education Agency Waiver Request

Pursuant to Tennessee Code Annotated § 49-1-201(d), upon application by the local education agency for one (1) or more of its schools, the commissioner of education may waive any state board rule or statute that inhibits or hinders the LEA's ability to meet its goals or comply with its mission. Please submit completed forms to Commissioner.Schwinn@tn.gov. Following review by the commissioner, the district will be notified in writing if the waiver request is approved or denied. Unless otherwise stated, all waivers granted by the commissioner shall be granted for one year terms.

Waivers may **not** be granted by the commissioner for regulatory or statutory requirements related to:

- (A) Federal and state civil rights;
- (B) Federal, state and local health and safety;
- (C) Federal and state public records;
- (D) Immunizations;
- (E) Possession of weapons on school grounds;
- (F) Background checks and fingerprinting of personnel;
- (G) Federal and state special education services;
- (H) Student due process;
- (I) Parental rights;
- (J) Federal and state student assessment and accountability;
- (K) Open meetings;
- (L) Educators' due process rights;
- (M) Reductions in teachers' salaries;
- (N) Employee rights, salaries and benefits; and
- (O) Licensure of employees.

Local Education Agency:

Humphreys County School System

School Information:

Waverly Elementary
612 East Main
Waverly, TN 37185

Waverly Junior High School
520 East Main
Waverly, TN 37185

1. List the statute(s) and/or state board rules for which waiver is being requested:

SBE Rule 0520-19-01 for students in need of ESL instruction and to comply with State Board Rule (SBE) Chapter 0520-19

2. Explanation of how the statute(s) and/or state board rule(s) inhibits or hinders the local education agency's ability to meet its goal or comply with its mission:

The state board rule mandates that specific English as a Second Language (ESL) students are to receive an hour of services per day in the Humphreys County School System. This rule has hindered Humphreys County Schools in meeting this requirement to its fullest extent due to the August 2021 flood destroying Waverly Junior High (4th – 8th grades) and Waverly Elementary (K – 3rd grades). For the 2022-2023 school year, the entire ESL population for which the ESL Coordinator provides services attending Waverly Elementary and Waverly Junior High were re-located to other age-appropriate facilities throughout the county. All ESL students at Waverly Elementary and Waverly Junior High were displaced into three different schools: Waverly Junior High (6th – 8th grades) were re-located to Waverly Central, Waverly Junior High (4th – 5th grades) were moved to Lakeview Elementary, Waverly Elementary (K – 2nd grades) were moved to McEwen Elementary, and Waverly Elementary (3rd grade) was housed at the Community College.

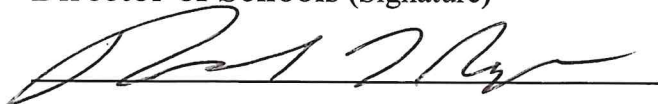
In this displaced population, there are two students who require an hour of ESL services per day enrolled in Waverly Junior High and one in Waverly Elementary. The state board rule, and the unique situation prohibits the ESL Coordinator from providing one hour of ESL services per day for the 2 ELs enrolled in Waverly Junior High School and placed at Lakeview, and one student at Waverly Elementary relocated to McEwen, because all three schools in which English Learners are located are too far apart to provide the required one hour daily services due to the commute time. It is not possible for the ESL Coordinator to travel to all three school campuses every day to provide these students with an hour of ESL services per day and not disrupt intervention to the remaining students needing services. The travel time is too great, and the distance among all these school locations is too far.

Humphreys County School System is requesting to condense services to an hour and forty minutes per day, in order to provide adequate instructional services three days per week rather than the required one hour per day, for these three ESL students. This will allow intervention services to be provided to the two Waverly Junior High School students re-located at Lakeview, in New Johnsonville, and the one Waverly Elementary ESL student re-located to McEwen Elementary, in McEwen, Tennessee; and not disrupt services to the remaining ESL students assigned to the ESL Coordinator.

3. Expected duration of the condition necessitating this waiver request:

This will continue to be an issue until the new school in Waverly is open. Once Waverly Elementary and Waverly Junior High students are housed under one roof, the ESL Coordinator will easily be able to work with all English Learners an hour per day.

Director of Schools (Signature)



Print Name: Richard Rye Date: 1 – 23 – 23